



## **Updates on Plant Variety Protection**

*Issue #30, 22 October 2017*

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- **Down on the Seed: The World Bank Enables Corporate Takeover of Seeds**
- **Implications of Seed Policies for On-Farm Agro-Biodiversity in Ethiopia and Uganda**

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## **1. Editorial**

This issue of the Updates highlights upcoming issues of the UPOV autumn 2017 session. Furthermore, two publications are presented that focus on national seed policies, including PVP legislation, in Eastern Africa, and on the World Bank's push for intellectual property rights in agriculture based on its Enabling the Business of Agriculture index.

## **2. UPOV autumn 2017 session – Upcoming issues**

Several UPOV bodies will be meeting in Geneva for its autumn session during the week of 23<sup>rd</sup> to 27<sup>th</sup> October 2017. Its main rule-making body, the Consultative Committee (CC) will meet on 25<sup>th</sup> October, and UPOV's highest decision-making body, the UPOV Council will hold its meeting on 26<sup>th</sup> October. The meeting of the CC, where Council decisions are prepared, is closed to observers. The Working Group on a possible International System of Cooperation (WG-ISC) will meet on 24<sup>th</sup> October, also without the presence of observers. The Administrative and Legal Committee will meet on 23<sup>rd</sup> and on the morning of 24<sup>th</sup> October. Other bodies of UPOV that will meet, include the Working Group on Variety Denominations and the Meeting on the Development of an Electronic Application Form.

Important agenda items include Interrelations between UPOV and the ITPGRFA, and the International System of Cooperation (ISC).

Three countries have submitted their draft Plant Variety Protection legislations: Guatemala, Myanmar and Brunei Darussalam. The UPOV Council will examine the conformity of the

draft laws with the 1991 Act of the Convention.

### Interrelations between UPOV and the ITPGRFA

The following-up of the Symposium on Interrelations between UPOV and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) held in autumn 2016 was planned to be discussed in the spring 2017 session, but was postponed to the autumn 2017 session.

The Proceedings of the Symposium have been published recently. The Symposium presentations are uploaded here.

Following the Symposium, the Consultative Committee in autumn 2016 agreed to invite members and observers to provide suggestions for any further action concerning interrelations between the ITPGRFA and the UPOV Convention for the consideration by the CC at its ninety-third session.

In its submission to UPOV of 16 January 2017, APBEBES recommends a revision of the Explanatory Note on Exceptions to the Breeder's Right under the 1991 Act of the UPOV Convention (UPOV/EXN/EXC/1) as to include all acts of smallholder farmers in relation to the protected variety i.e. to freely save, use, exchange and sell farm saved seed/propagating material. The Explanatory Note should also clarify that all breeding activities of farmers, including breeding by selection, within the scope of breeders' exemption. APBEBES also recommends the adoption of a decision that recognizes the right of governments to implement, in its PVP legislation, provisions to realize fair and equitable benefit sharing. Moreover, APBEBES recommends a decision that the UPOV Convention and its members shall respect, promote and implement Farmers' Right to participate in decision-making processes in all UPOV activities and subsequently develop guidelines to implement Farmers' Right to participate in decision-making in relation to such activities.

See the full APBEBES submission of 16 January 2017.

The document before the Consultative Committee of the spring session that contains the submissions of Norway, Peru, Ecuador, ESA, ISF and APBEBES has been received through member countries' Freedom of Information Acts and can be downloaded .

APBEBES is invited to the Consultative Committee CC94 meeting on 25<sup>th</sup> October to present its position.

For background information see

'UPOV's Symposium on Interrelations between ITPGRFA & UPOV, Inadequate to Implement "Farmers Rights" Resolutions' (April 2016).

APBEBES Updates Issue #25, October 21, 2016

APBEBES Updates Issue #23, May 9, 2016

APBEBES Updates Issue #17, October 26, 2015

APBEBES Updates Issue #14, May 8, 2015

## International System of Cooperation

Since it was first introduced in 2014, several UPOV member states have questioned the proposed International System for Cooperation. In particular, they requested evidence on a need for a harmonized mechanism and its implications for national and regional plant variety offices. Some member states have also underlined that UPOV already has mechanisms such as the PLUTO and GENIE databases that, to some extent, help expedite the work and promote cooperation on DUS testing, and asked for more concrete evidence of the need for a new system, as well as a cost-benefit analysis for the establishment of an ISC.

UPOV members have also raised concerns issues such as the impact of the new system for members at different levels of development and on regional systems; the average cost of protection; the financial impact of the new system on national offices; and the legal options for the creation of the system, bearing in mind the basis for the establishment through a contract, vis-à-vis other alternatives, such as a Patent Cooperation Treaty or Madrid-like agreement.

The CC91 concluded to establish a working group on a possible ISC, and CC92 decided on the mandate and Terms of Reference of the WG-ISC. The WG-ISC shall, among other, provide the CC with an analysis of the need for an International System of Cooperation, advantages and disadvantages of the proposal as well as the existence of a legal basis under the Acts of the UPOV Convention. The CC92 ruled that the WG-ISC is restricted to members, and in consequence, its documents are not publicly available. The WG-ISC comprises the members that expressed interest to be part of it: Bolivia, Brazil, Canada, Chile, Colombia, Ecuador, EU (including CPVO, Estonia, France, Germany, Netherlands and UK), Japan, Norway, USA. Other members are free to participate at any meeting and make comments.

In its first meeting in October 2016, the WG-ISC prepared a list of issues relevant for the needs of PVP offices. At its second meeting, the WG-ISC agreed on several items on the list to not be a priority. On others, presentations by members of the WG-ISC were invited, to be held at the upcoming third meeting.

For more background information on the ISC, see

APBREBES Updates Issue # 26, December 13, 2016

Vague Results Question the Need for Harmonized PVP Filing System in UPOV;

A simple "agreement" proposed to accommodate Industry's UPOV-plus demands and Multinational seed industry pitches for further harmonization in UPOV.

## **3. Publications**

### **· Down on the Seed: The World Bank Enables Corporate Takeover of Seeds**

This report exposes that while the World Bank claims to promote "smart and balanced policies," its Enabling the Business of Agriculture index blatantly ignores farmer-managed seed systems. Instead, it reinforces the stranglehold of agrochemical companies and

Western nations by pushing for intellectual property rights in agriculture, so that private breeders profiteer from the use of their seeds by farmers. (From the Executive Summary)

Oakland Institute (2017) Down on the Seed: The World Bank Enables Corporate Takeover of Seeds, with a version of the executive summary available in French.

### · **Implications of Seed Policies for On-Farm Agro-Biodiversity in Ethiopia and Uganda**

Across East Africa, national seed policies and commercial seed enterprises have focused on increasing farmers' access to modern seed varieties. These new varieties are developed and delivered to farmers via the formal seed system, which is comprised of government and private sector seed breeders, processors, and vendors. However, the formal seed system only provides a small share (<20%) of smallholders' seed in the region. Most farmers source seed from informal seed systems, including own-saved seed, exchanges with neighbors, and local seed markets. At the local level, informal seed systems are preferred by farmers because of proximity and local varietal preferences (e.g., crop variety tastes and suitability for local environmental conditions). At the national and regional levels, the conservation and use of local crop varieties through informal systems has also provided a wealth of crop genetic diversity increasingly recognized as critical for climate change adaptation. To evaluate how policies in East Africa impact seed systems we systematically code 117 provisions in 21 national seed policies in Ethiopia (n=11) and Uganda (n=10), highlighting the implications of current and proposed policies for the availability and accessibility of: (i) improved seed; (ii) quality-controlled seed; and (iii) genetically diverse local seed in both the formal and informal seed systems in each country. (From the Abstract)

GA Otieno, TW Reynolds, A Karasapan, IL Noriega (2017) Implications of Seed Policies for On-Farm Agro-Biodiversity in Ethiopia and Uganda in: Sustainable Agriculture Research Vol.6, No.4; 2017

## **Upcoming Events**

UPOV Autumn 2017 Session: 23 to 26 October 2017

Monday, 23 October and Tuesday, 24 October (morning) [Administrative and Legal Committee](#)

Tuesday, 24 (afternoon) Working Group on a Possible International System of Cooperation (closed to observers)

Wednesday, 25 October Consultative Committee (closed to observers)

Thursday, 26 October [Council](#)

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### **Feedback & Contact**

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